



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

April 18, 1962

This Opinion
Affirms Opinion

0-2918

Hon. Franklin L. Smith
County Attorney
Nueces County
Corpus Christi, Texas

Opinion No. WW-1314

Re: Whether it is lawful for a
nineteen year old boy, who
has had his disabilities re-
moved under Article 5921,
V.C.S., to possess or consume
any alcoholic beverages in
any public place under the
provisions of Article 666-17
(14)(a), V.C.S., and whether
a minor whose disabilities
have been removed can be
appointed a notary public
and related questions.

Dear Mr. Smith:

In your recent letter you requested an opinion from
this office on several questions, the first of which is:

"If a nineteen (19) year old boy has
had his disabilities of minority removed
under the provisions of Article 5921, is
it unlawful for him to possess or consume
any alcoholic beverage in any public
place under the provisions of Article
666-17(14)a?"

Article 666-17(14)(a), Vernon's Penal Code, provides
as follows:

"It shall be unlawful for any person
under the age of twenty-one (21) years to
purchase any alcoholic beverage, and upon
conviction thereof shall be fined in a sum
of not less than Ten Dollars (\$10) or more
than One Hundred Dollars (\$100). It shall
further be unlawful for any person under the
age of twenty-one (21) years to possess, un-
less such person under the age of twenty-
one (21) years be a bona fide employee, as
permitted elsewhere in this Act, on the
licensed premises where such alcoholic
beverage is possessed, or consume any

alcoholic beverage in any public place unless at the time of such possession or consumption such person under the age of twenty-one (21) years is accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some Court, who is actually, visibly and personally present at the time such alcoholic beverage is possessed or consumed by such person under the age of twenty-one (21) years, and upon conviction thereof shall be fined in a sum of not less than Ten Dollars (\$10) or more than One Hundred Dollars (\$100). As amended, Acts 1955, 54th Leg., p. 1149, ch. 433, § 1."

As can be readily seen nowhere does this statute refer to "minor". The controlling fact as set out in the statute is the age of twenty-one years. There can be no question of the disability of minority because the statute does not refer to minors and we hold that Article 5921, V. C. S., has no application to this situation. We therefore hold that a nineteen year old boy is liable for a violation of Article 666-17(14)(a), V.P.C., whether or not his disabilities have been removed.

In a later letter you asked us the following question:

"If a minor has his disabilities removed under Article 5921, can he be appointed a Notary Public under the provisions of Article 5949?"

This question has been answered by Attorney General's Opinion No. 0-2918, a copy of which is enclosed herewith. We hereby affirm that holding to the affect that a person under twenty-one years of age cannot be a notary public even though his disabilities of minority have been removed.

Lastly you asked us:

"Under the provisions of Article 5949, does it matter whether the appointee is male or female?"

Article 5949, Vernon's Civil Statutes, provides as follows:

"2. To be eligible for appointment as Notary Public for any county, a person shall be a citizen of this state and at least Twenty-one (21) years of age, and a resident of the county for which he is appointed;..."

"3. Any person desiring appointment as Notary Public shall furnish to the County Clerk of the county of residence of the applicant, or the county in which the applicant seeks to act as Notary Public, his name as it will be used in acting as such Notary Public, his post office address, and shall satisfy the Clerk that he is at least twenty-one (21) years of age and otherwise qualified by law for the appointment which is sought...."

The above sections of the statute set out the qualifications for the notary public. Nowhere is any reference made to the sex of the appointee. We therefore hold that it makes no difference under Article 5949 whether a person appointed as a notary public is a male or female.

S U M M A R Y

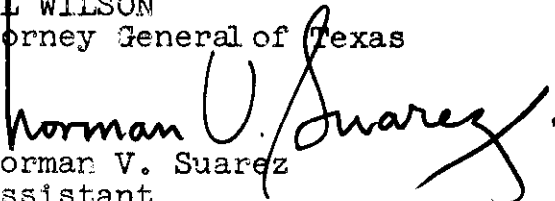
1. Article 666-17(14)(a) applies to all persons under twenty-one years of age whether male or female and whether or not their disabilities of minority have been removed.

2. Under the provisions of Article 5921, V.C.S., a notary public must be at least twenty-one years of age before appointment and the removal of the disabilities of minority has no affect on this requirement.

3. Under the provisions of Article 5949 either a male or female may be appointed a notary public.

Very truly yours,

WILL WILSON
Attorney General of Texas

By 
Norman V. Suarez
Assistant

NVS:sh
Enclosure

APPROVED:

OPINION COMMITTEE:

J. C. Davis, Chairman

Robert McGee

Grady Chandler

W. O. Shultz

REVIEWED FOR THE ATTORNEY GENERAL

BY: Houghton Brownlee, Jr.